

House File 2385 - Introduced

HOUSE FILE 2385
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 527)

A BILL FOR

1 An Act relating to reports of child abuse, and sexual
2 exploitation by a counselor, therapist, or school employee,
3 and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.69, subsection 1, unnumbered
2 paragraph 1, Code 2022, is amended to read as follows:

3 The classes of persons enumerated in this subsection shall
4 make a report within twenty-four hours and as provided in
5 section 232.70, of cases of child abuse. In addition, the
6 classes of persons enumerated in this subsection shall make a
7 report of abuse of a child who is under twelve years of age
8 and ~~may~~ shall make a report of abuse of a child who is twelve
9 years of age or older, which would be defined as child abuse
10 under section 232.68, subsection 2, paragraph "a", subparagraph
11 (3) or (5), except that the abuse resulted from the acts or
12 omissions of a person other than a person responsible for the
13 care of the child.

14 Sec. 2. Section 709.15, subsection 1, paragraphs g and h,
15 Code 2022, are amended to read as follows:

16 *g.* (1) "*School employee*" means any of the following, except
17 as provided in subparagraph (2):

18 (a) A person who holds a license, certificate, or statement
19 of professional recognition issued under chapter 272.

20 (b) A person who holds an authorization issued under chapter
21 272.

22 (c) A person employed by a school district, nonpublic
23 elementary or secondary school, or charter school full-time,
24 part-time, or as a substitute.

25 (d) A person who performs services as a volunteer for a
26 school district, nonpublic elementary or secondary school, or
27 charter school and who has direct supervisory authority over
28 ~~the any student with whom the person and~~ engages in conduct
29 prohibited under subsection 3, paragraph "a", with any student.

30 (i) This subparagraph division shall not apply to a
31 student enrolled in a school district, nonpublic elementary
32 or secondary school, or charter school in any grade from
33 kindergarten through grade twelve providing volunteer services
34 to the school district, nonpublic elementary or secondary
35 school, or charter school.

1 (ii) This subparagraph division shall not apply to a
2 volunteer for a school district, nonpublic elementary or
3 secondary school, or charter school who is under twenty-one
4 years of age who does not have, and has not had, direct
5 supervisory authority over the student with whom the person
6 engages in conduct prohibited under subsection 3, paragraph
7 "a".

8 (e) A person who provides services under a contract for
9 such services to a school district, nonpublic elementary
10 or secondary school, or charter school and who has direct
11 supervisory authority over the any ~~student with whom the person~~
12 and engages in conduct prohibited under subsection 3, paragraph
13 "a", with any student.

14 (f) A person employed by a community college full-time,
15 part-time, or as a substitute who provides instruction to
16 high school students under a sharing or concurrent enrollment
17 program offered in accordance with section 257.11 or 261E.8.

18 (2) *"School employee"* does not include a student enrolled in
19 the school district, nonpublic elementary or secondary school,
20 or charter school.

21 *h. "Student"* means a person who is currently enrolled in
22 or attending a public or nonpublic elementary or secondary
23 school or charter school, or who was a student enrolled in or
24 who attended a public or nonpublic elementary or secondary
25 school or charter school within thirty days of any violation of
26 subsection 3.

27 Sec. 3. Section 709.15, subsection 3, paragraph c, Code
28 2022, is amended to read as follows:

29 *c.* The provisions of this subsection do not apply to
30 a person who is employed by a school district attendance
31 center if the student with whom the person engages in conduct
32 prohibited under subsection 3, paragraph "a", is not enrolled
33 in the same school district attendance center that employs the
34 ~~person, the person does not have direct supervisory authority~~
35 ~~over the student,~~ and the person does not meet the requirements

1 of subsection 1, paragraph "g", subparagraph (1), subparagraph
2 division (a).

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill relates to reports of child abuse, and sexual
7 exploitation by a counselor, therapist, or school employee.

8 The bill provides that a person who is a mandatory reporter
9 of child abuse shall make a report of child abuse of a child
10 who is 12 years of age or older. Current law provides that a
11 mandatory reporter of child abuse may make a report of child
12 abuse for a child who is 12 years of age or older.

13 The bill adds a person employed by, performing volunteer
14 services for, or providing contract services to a nonpublic
15 elementary or secondary school or charter school who has direct
16 supervisory authority over any student and engages in conduct
17 prohibited under Code section 709.15 (sexual exploitation by a
18 counselor, therapist, or school employee) with any student to
19 the definition of "school employee".

20 The bill provides that provisions of the bill concerning
21 volunteers do not apply to a student enrolled in any grade from
22 kindergarten through grade twelve providing volunteer services
23 at a school or to a volunteer who is under 21 years of age who
24 does not have, and has not had, direct supervisory authority
25 over the student with whom the person engages in prohibited
26 conduct.

27 A school employee who commits sexual exploitation commits
28 either a class "D" felony or an aggravated misdemeanor,
29 depending on the nature of the offense. A class "D" felony
30 is punishable by confinement for no more than five years
31 and a fine of at least \$1,025 but not more than \$10,245. An
32 aggravated misdemeanor is punishable by confinement for no more
33 than two years and a fine of at least \$855 but not more than
34 \$8,540.

35 A person who commits a violation of Code section 709.15

1 is subject to a special sentence under Code section 903B.2;
2 is classified as a tier II sex offender under Code section
3 692A.102(1)(b)(11) if the child is 13 years of age or older, or
4 a tier III sex offender under Code section 692A.102(1)(c)(28)
5 if the child is under 13 years of age, and is required to
6 register as a sex offender under Code section 692A.103; and is
7 subject to a no-contact order upon release from jail or prison
8 under Code section 709.19 and hormonal intervention therapy
9 under Code section 903B.10(3)(h).
10 A violation of Code section 709.15 is a forcible felony under
11 Code section 702.11.